

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



November 18, 1986

ALL COUNTY INFORMATION NOTICE I-105-86

TO: ALL COUNTY WELFARE DIRECTORS
ALL PROBATION DEPARTMENTS
ALL COUNTY COUNSELS
ALL COUNTY AUDITORS
ALL COUNTY FISCAL OFFICERS
ALL COUNTY ADMINISTRATIVE SERVICES OFFICERS

SUBJECT: AB 3632/AB 882: CLARIFICATION REGARDING OUT-OF-HOME
PAYMENTS, CLAIMING/OVERPAYMENT PROCEDURES, MEDI-CAL ELIGIBILITY
AND DEPENDENT CHILDREN

REFERENCE: ALL COUNTY LETTER (ACL) 86-48, 86-17
ALL COUNTY INFORMATION NOTICE I-69-86

This All County Information Notice provides county welfare departments (CWDs) with further information and instructions for implementing Chapter 1747, Statutes of 1984 (AB 3632) as amended by Chapter 1274, Statutes of 1985 (AB 882). These statutes assign to specific agencies responsibility for educationally related services and out-of-home care for seriously emotionally disturbed (SED) children placed pursuant to an individualized education program (IEP). CWD responsibilities were effective July 1, 1986.

Out-of-State Payments

As stated in ACL 86-48, AB 3632 payments may be made to out-of-state facilities. When an SED child is placed out-of-state pursuant to an IEP, the local education agency (LEA) has case management responsibility. However, the county mental health (CMH) agency will continue to be responsible for authorizing payment and will complete and submit the payment authorization document to the CWD.

Out-of-state placements must meet the standards approved by the State Department of Education (SDE). The facility must be a private nonsectarian school licensed by the state in which the school is located and be SDE certified. Payments to out-of-state facilities must be based on that state's (or facility's) established board and care rate. The rate must not include mental health or educational costs. Such costs will be funded by the SDE. The SDE will ensure that the board and care rates for out-of-state facilities are consistent with rates paid for SED children placed in-state (i.e., Aid to Families With Dependent Children-Foster Care rates).

It is the responsibility of the CMH to determine and verify the board and care rate for an out-of-state facility in order to authorize payment. To assist the CMH, the SDE will prepare and distribute to county schools and special education local plan area directors a listing of all SDE approved facilities and their rates. Until this listing is available, the SDE will provide the information directly to the CMH upon request. Questions regarding approved out-of-state facilities and their rates should be directed to Paul Starkovich, SDE Services Assurance Compliance Unit, at (916) 445-0777 or ATSS 485-0777.

Quality Control/Overpayments

The State Department of Mental Health (SDMH) and the CMH are responsible for insuring that payments are made only for eligible children and that such payments are in the correct amount. The CMH is responsible for any errors due to the authorization document being incorrectly completed (e.g., an incorrect provider amount or length of placement). The CWD is responsible only for those errors in which the amount paid to the provider is different than the amount indicated on the authorization document.

The State Department of Social Services (SDSS) will verify AB 3632 claims on a limited basis. When the SDSS determines that a claim needs adjustment (e.g., an incorrect rate has been paid), the claim will either be corrected by the SDSS with a copy of the adjusted claim sent to the county or returned to the CWD for adjustment. The CMHs have been instructed by the SDMH to work with the CWD to develop and implement procedures for reconciling or correcting claims on the local level. Questions regarding the SDSS claim verification process should be directed to SDSS Fiscal Policy and Procedures Bureau at (916) 445-7046 or ATSS 485-7046.

The SDMH is developing the necessary policies and procedures regarding eligibility, payments, and provider overpayments. Pending further instructions from the SDMH, the CWD should work with the CMH to develop local procedures for overpayments and underpayments. Such procedures may be included in an interagency agreement between the two agencies.

Medi-Cal Eligibility

Based on information from the State Department of Health Services (SDHS), ACL 86-48 and ACIN I-69-86 stated that SED children placed out-of-home pursuant to an IEP would have their eligibility determined under the Medically Indigent Program. However, we were recently informed by the SDHS that such children must have their Medi-Cal eligibility determined as a family

member because there is no statutory authority to waive parental financial responsibility requirements under federal Medicaid rules as long as the parent(s) retain care, custody and control of their child.

The SDHS is continuing to research Medi-Cal eligibility for SED children. Until this issue is resolved, SED children placed out-of-home pursuant to an IEP must have their eligibility for Medi-Cal determined under existing statutory and regulatory requirements.

The SDHS will shortly be issuing guidelines for implementing AB 3632/AB 882 Medi-Cal eligibility for SED children. Questions regarding Medi-Cal eligibility and procedures should be directed to Maxine Forster, SDHS Medi-Cal Eligibility Branch, at (916) 324-4954 or ATSS 454-4954.

Dependent Children

Instructions regarding AB 3632 payments to dependent children are included in ACL 86-48. Specifically, there are three populations of dependent children which are impacted by AB 3632 provisions.

First, there are those children who are described in ACL 86-17 (CHRISTOPHER T. v. SAN FRANCISCO UNIFIED SCHOOL DISTRICT CONSENT JUDGEMENT, February 27, 1986). These are the "Christopher T." type placements in which the child is made a dependent in order to be eligible for an Aid to Families with Dependent Children-Foster Care (AFDC-FC) out-of-home payment. Children who do not meet Welfare and Institutions (WIC) Section 300 criteria should not remain dependents solely on the basis of their disability or their need for educational residential placements. The CWD should take steps to terminate dependencies which do not meet WIC Section 300 criteria. Prior to dismissing dependency, the CWD should notify the CMH in the county of origin of this planned action in order for the CMH to become involved in planning for the child's future mental health needs.

Children for whom dependencies have been dismissed should then be referred to the LEA of the parent's district of residence for enrollment and follow-up as appropriate. If an IEP team determines that the child is seriously emotionally disturbed and that out-of-home care is necessary, out-of-home placement should appropriately be funded through the AB 3632 payment system.

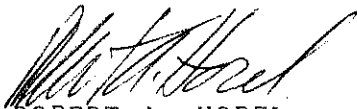
Procedures must be developed and implemented on the local level to facilitate a smooth transition from AFDC-FC to AB 3632 funding. The local agencies responsible for implementing AB 3632/AB 882 should work together to develop an interagency

plan for transitioning dependent children where appropriate. Coordinated efforts are required to ensure there is no lapse in service delivery during the transition period.

The second group of children are those dependents who meet WIC 300 criteria (i.e., are neglected or abused) and are placed out-of-home under the AFDC-FC program. These children should appropriately continue to receive AFDC-FC payments for out-of-home care because the overriding reason for placement is protection, not education. Such children are entitled, however, to receive the full range of educationally-related services, including mental health services, specified on the IEP. The SDE has confirmed that dependency is not a basis for denying any educationally-related assessments or services.

The third group of children are those dependents who meet WIC 300 criteria but are not removed from their home. If, as a result of an IEP, these children are placed in out-of-home care for educational (not protection) purposes, residential placements should be funded by the AB 3632 payment system. These children are also entitled to receive the full range of educationally-related services.

If you have questions regarding the impact of AB 3632/AB 882 on dependent children, please contact your Adult and Family Services Operations Consultant at (916) 445-0623 or ATSS 485-0623.



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Deputy Director
Welfare Program Division



LOREN D. SUTER
Deputy Director
Adult and Family Services

cc: CWDA
County Mental Health Directors